

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 04/21/08		Item Number: <u>A-12</u>	
AGENDA ITEM: (1) Discussion and Potential Implementation of a City Council Policy Related to Requests for Proposals; (2) Introduction of an Ordinance Amending Sections 3.07.070 and 3.07.075 of the Culver City Municipal Code Relating to Personal and Professional Service Agreements and City Manager Contract Approval Authority, Respectively; (3) Adoption of a Resolution Establishing Policies and Procedures for the Request for Proposals Process; and (4) Direction to Staff to Include Provisions relating to Design/Build and Emergency Contracts in the Proposed Ordinance Relating to Public Works Contracts that will be Presented to Council at a Future Date.			
Contact Person/Dept.: Martin R. Cole, Assistant City Manager		Phone Number: (310) 253-6000	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Public Notification: Master Notification List (04/17/08)			
Department Approval: Martin R. Cole (04/17/08)		City Attorney Approval: Carol Schwab (by H. Baker) (04/17/08)	
Fiscal Impact Review: Jeff Muir (04/17/08)		City Manager Approval: Jerry B. Fulwood (04/17/08)	
<u>RECOMMENDATION:</u> Staff recommends the City Council (1) discuss and consider implementation of a City Council Policy Related to Requests for Proposals; (2) introduce an Ordinance amending Sections 3.07.070 and 3.07.075 of the Culver City Municipal Code (CCMC) relating to personal and professional services agreements and City Manager contract approval authority, respectively; (3) adopt a Resolution establishing the policies and procedures for the Request for Proposals (RFP) process; and (4) direct staff to include provisions relating to design/build and emergency contracts in the proposed ordinance relating to public works contracts that will be presented to Council at a future date. <u>BACKGROUND:</u> The City Council has directed staff to present recommendations related to the use of the RFP process. This staff report discusses a recommendation that provides for a clear, consistent policy applicable to procurement of Personal and Professional Services. As will be discussed later in this report, procurement of supplies, materials, and equipment is already governed by existing provisions of the CCMC.			
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DISCUSSION:

Purchasing of Supplies, Materials and Equipment vs. Personal and Professional Services

Chapter 3.07 of the CCMC was originally adopted in 1965. While it provides guidance in a number of different areas, the fact the language is over 40 years old, along with the requirements of the New Charter, provides the City Council with an opportunity to perform a thorough review and update to the provisions of Chapter 3.07. The Subcommittee (Councilmember Rose and Councilmember Malsin) and staff provide the following comments and recommendations for the City Council's consideration (please note, the following discussion does not include contracts for Public Works, which shall be discussed separately and later in this report):

In considering the adoption of the RFP Policy, two criteria should be considered: The Monetary Limit Criterion and the Time Criterion. These two criteria are discussed below.

Monetary Limit Criterion

In several sections of Chapter 3.07, various dollar limits are specified which trigger the applicability of different procedures. The following table summarizes these dollar limits and the associated requirements:

Current Dollar Limit	Procedure Triggered
\$10,000 or less	The City Manager is authorized to approve contracts for PPS pursuant to Section 3.07.075. (Note: Such authority is for a one-time only \$10,000 expenditure over the aggregate life of the agreement, not a per year amount.)
\$20,000 or less	(For both supplies and equipment and personal and professional services) Formal bidding is not required; procurement based upon competitive quotations, whenever practical. City

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	Manager shall develop written policies for purchases in this category. Section 3.07.055.
More than \$20,000	Formal bidding required for supplies or equipment . Section 3.07.015. This requirement does not apply to personal and professional services . Section 3.07.070.

As indicated in the table above, the CCMC provides the City Manager with the authority to approve any contract in an amount not-to-exceed \$10,000. For reasons of efficiency and to provide a clearer standard, staff recommends increasing this number to be consistent with the \$20,000 limit, below which formal bidding is not required. In considering an updated number for the City Manager's approval authority, it may be helpful to note that the \$10,000 limit was instituted in 1965. By applying only the change in the Consumer Price Index, \$10,000 in 1965 is equivalent to \$67,788 today.

Staff recommendation: That a single dollar limit of **\$20,000** be implemented where contracts for **personal and professional services (PPS) and supplies, materials, and equipment (SME)** in the amount of \$20,000 and below may be approved by the City Manager and formal bidding/RFPs are not required. For procurements exceeding \$20,000, either formal bidding (for SME) or the Request for Proposals (for PPS) procedures shall apply and the contracts shall be considered and potentially awarded by the City Council.

Under the proposed Policy, it is recommended to clarify that this \$20,000 contract approval authority is a cumulative, lifetime limit applicable on a per vendor basis. For example, if the City Manager were to approve a \$20,000 contract in one fiscal year, future contracts would require the City Council's approval.

Section 3.07.065 provides for exemptions from the formal bidding requirements for **SME purchases**. Staff recommends that these exemptions be retained and is not proposing any changes in this regard.

Time Criterion

The Subcommittee discussed the value in periodically employing either the formal bidding process or the RFP process for procurements of PPS and SME without regard to the amount of the purchase if a certain amount of time has elapsed since the last time the PPS or SME had been formally bid or an RFP process had been

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undertaken. Therefore, staff recommends as part of the proposed RFP Policy, the following time criterion be adopted:

- If the same vendor has been utilized for a period of five years, then the procurement for SME or PPS must be (1) formally bid (for SME) or (2) obtained through an RFP Process (for PPS) as provided for in the Policy
- The time criterion may be waived by the City Council.

The Time Criteria applies regardless of the amount of the procurement for both SME and PPS.

Formal Bidding Procedures vs. Requests for Proposals

Chapter 3.07 (specifically Sections 3.07.020 et seq.) provides the process for purchases using the Formal Bidding Process (for SME). In summary, following are the key points of the Formal Bidding Process:

- Applies to purchase or contract in excess of \$20,000 for **supplies or equipment**.
- Publishing of Notice Inviting Sealed Bids
- Solicitation of Bids from bidders on the Bidders List
- Bidder Security may be required
- Bidder Performance/Labor & Materials Bonds may be required
- Public bid opening process by City Clerk's Office
- Bids are subject to public inspection once opened.
- Bids shall be awarded by the City Council to the responsible bidder

For PPS, an alternative used often by many cities (including Culver City) is the Request for Proposals process (the RFP Process). The City has often used the RFP Process for the acquisition of professional services (which services are exempt from the Formal Bidding Procedures as stated in Section 3.07.070). It is proposed to formalize the use of the RFP process by adding 3.07.070.D to the CCMC. This proposed addition would provide the City Council with the authority to establish, by resolution, procedures for the implementation of an RFP Process for PPS.

Following are the recommended criteria for use of the RFP Process:

- (1) Applies to purchase or contract (of PPS) in excess of **\$20,000**;
- (2) The RFP Process shall be required when:
 - a. A single purchase order or contract is estimated to exceed \$20,000; **or**

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- b. Purchase orders or contracts with the same vendor exceed \$20,000 in the aggregate ; **or**
- c. The same vendor has been utilized for a period of five years, regardless of amount of contract (subject to waiver by the City Council).
- d. RFP's shall be presented to the City Council prior to release.

(3) City Council Waiver

- a. The City Council may waive the requirement for the RFP Process

It is proposed that this proposed policy shall become effective on July 1, 2008. To allow for a smooth implementation of this policy, the City Manager's Office shall direct each Department to review all of the City's existing contracts. Contracts where the specific vendor has been utilized for a period exceeding five years shall be presented to the City Council for approval of a release of an RFP or a waiver therefrom, as applicable.

The RFP Policy provides a process by which the City can confirm, through opening purchases to the marketplace, that it is receiving the best quality personal and professional services at a competitive price.

It is the goal of the RFP Policy to provide a consistent process by which all City Departments conduct their procurement of PPS. Should the City Council adopt the proposed Ordinance and Resolution implementing these new procedures, the City Manager's Office and the City Attorney's Office will work with all City Departments to create a boilerplate RFP to avoid duplication of efforts and to ensure RFP's contain certain common requirements (for example, insurance, payment processes, cancellation clauses, etc.).

Contracts to City Employees/Former City Employees

Section 3.07.090 prohibits any City employee in having a financial interest, directly or indirectly, in any purchase order or contract. To further the City's high ethical standards, it is proposed that contracts involving former City employees be awarded solely by the City Council at a public meeting.

Public Works Contracts

As mentioned earlier in this report, Section 1604 of the New Charter requires the City Council to establish by ordinance procedures for Public Works contracts. Until such time as the Council establishes such procedures, the prior procedures set forth in the Old Charter remain in effect per Section 2007 of the New Charter. It is

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important the City have appropriate procedures for public works contracts to ensure the process has integrity and ensures quality projects in a fair and ethical manner. Because of the potential complexity of the public works contracting process, a separate ordinance will be prepared related to this specific subject and presented to the City Council at a future date. At such time as staff returns with a proposed ordinance relating to public works contracts, staff is seeking direction on the following items for potential inclusion in the proposed ordinance:

Design/Build Process

"Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

While not always the most applicable process, the ability of a Charter City to utilize the Design/Build process should be an option available to the City Council. Therefore, staff recommends the City Council direct staff to include in a future proposed ordinance the Design/Build Option.

Emergency Purchases

Section 3.07.060 provides the City Manager, Purchasing Officer, and (with some limitation) department heads with the authority to procure supplies and equipment in the event of an emergency. It is proposed that similar language be added for public works contracts. Because of the extraordinary circumstances applicable to an emergency, staff recommends the Council direct staff to include such language in a future ordinance to be considered by the City Council.

FISCAL ANALYSIS:

The proposed Policy for procurement for SME and PPS are expected to streamline and simplify the City's purchasing procedures while further strengthening oversight and implementing best management practices utilized in other surrounding cities.

Updating the administrative approval limit and standardizing the process for determining when either (1) Formal Bidding or (2) the RFP Process is required will reduce costs. Some of these cost savings may be offset by increased resources being allocated to the preparation, distribution, evaluation, and management of the RFP Process. It should be noted, that during the initial year of operation under this policy, a significant investment of staff time will be needed to prepare the boilerplate RFP and to review all of the City's existing contracts. It is expected this process may take a full fiscal year to complete.

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Standardized processes are also expected to result in more frequent bidding/RFP. This is expected to lower costs as more competitive bids are received and awarded.

ATTACHMENTS:

- (1) Chapter 3.07 of the Culver City Municipal Code
- (2) Proposed Ordinance (red-lined and clean version)
- (3) Proposed Resolution

MOTION:

That the City Council:

- 1. Discuss the potential implementation a City Council Policy related to Requests for Proposals; and
- 2. Introduce an Ordinance amending Sections 3.07.070 and 3.07.075 of the Culver City Municipal Code relating to personal and professional services agreements and City Manager contract approval authority, respectively;
- 3. Adopt a Resolution establishing the policies and procedures for the Request for Proposals process; and
- 4. Direct staff to include provisions relating to design/build and emergency contracts in the proposed ordinance relating to public works contracting procedures that will be presented to Council at a future date.